

JS 44 (Rev. 08/18)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

MARK E. DILLON and ROSEMARY DILLON, h/w

(b) County of Residence of First Listed Plaintiff Montgomery, PA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Derek R. Layser, Friedman Schuman, P.C.  
101 Greenwood Ave., 5th Floor, Jenkintown, PA 19046  
215-690-3817

**DEFENDANTS**

JAMES S. IRWIN and PRIME SERVICES, LLC

County of Residence of First Listed Defendant Somerset, NJ  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                                       |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE  
03/22/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**MARK E. DILLON and ROSEMARY  
DILLON, h/w,**

**Plaintiffs**

**v.**

**JAMES S. IRWIN and PRIME SERVICES,  
LLC,**

**Defendants**

**CASE NO.:** \_\_\_\_\_

**CIVIL ACTION**

**JURY TRIAL DEMANDED**

**CIVIL ACTION-COMPLAINT**

**I. NATURE OF ACTION**

1. Plaintiffs Mark E. Dillon and Rosemary Dillon bring this action against defendants James S. Irwin and Prime Services, LLC as a result of a vehicular accident that occurred in Somerset County, New Jersey on April 5, 2017.

**II. PARTIES**

2. Plaintiffs Mark E. Dillon and Rosemary Dillon, husband and wife, are adult individuals and citizens of the Commonwealth of Pennsylvania with a residence located at 101 Dorp Circle, Norristown, PA 19401.

3. Defendant James S. Irwin is an adult individual and citizen of the State of New Jersey with a residence located at 224 Grove Street, Apt. B, Somerville, NJ 08876.

4. Defendant Prime Services, LLC is a limited liability company duly organized and existing under and pursuant to the laws of the State of New Jersey with a principal place of business located at 224 Grove Street, Apt. B, Somerville, NJ 08876.

5. At all times relevant hereto, defendant James S. Irwin was a member, director, officer, manager and/or employee of defendant Prime Services, LLC.

### **III. JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00) and there is complete diversity of citizenship among the parties.

7. Venue is properly laid in the District of New Jersey because the subject accident occurred in and most of the witnesses are located in Somerset County, New Jersey.

8. Plaintiffs demand a trial by jury.

### **IV. OPERATIVE FACTS COMMON TO ALL COUNTS**

9. On or about April 5, 2017, plaintiff Mark E. Dillon, who was riding a motorcycle, was making a right turn from the property of the America's Best Value Inn in Bridgewater, NJ onto U.S. Route 22 West when he was struck by a truck and trailer owned and/or operated by defendant Prime Services, LLC and driven by defendant James S. Irwin.

10. As a direct result of the impact, Mr. Dillon, who was thrown from the motorcycle, sustained serious injuries, including injuries to his left leg which ultimately necessitated amputation.

11. The accident was caused solely by the carelessness and negligence of the defendants, as set forth below, and was in no way caused by any careless or negligent act or omission on the part of plaintiff Mark E. Dillon.

#### **COUNT I Negligence**

#### **Plaintiff Mark E. Dillon v. Defendants James S. Irwin and Prime Services, LLC**

12. Plaintiffs incorporate by reference the averments contained in the above paragraphs as though fully set forth herein at length.

13. At all times relevant hereto, defendant Prime Services, LLC acted by through its duly authorized agents, servants, workmen and/or employees, including but not limited to defendant James S. Irwin, all of whom acted within the course and scope of their employment, agency and/or servanthship.

14. Accordingly, defendant Prime Services, LLC is vicariously liable for defendant James S. Irwin's negligence under the doctrine of *respondeat superior*.

15. Plaintiff Mark E. Dillon's injuries and damages were caused by the negligent and careless conduct, acts and/or omissions on the part of the defendants, by and through their employees, agents, servants and/or workmen, in:

- (a) failing to operate a motor vehicle in a careful and cautious manner;
- (b) failing to maintain a motor vehicle under proper and adequate control;
- (c) operating a motor vehicle without regard for the safety and position of plaintiff Mark E. Dillon;
- (d) failing to maintain a proper lookout ahead;
- (e) improperly changing lanes;
- (f) improperly changing lanes without activating a turn signal;
- (g) improperly changing lanes without clearance for a motor vehicle's trailer;
- (h) failing to stop a motor vehicle in sufficient time to avoid the collision;
- (i) driving inattentively while operating a motor vehicle;
- (j) traveling at an excessive rate of speed;
- (k) failing to exercise the judgment, care and skill of reasonable persons under similar circumstances; and
- (l) such other negligent and careless conduct, acts and/or omissions as may be revealed upon further investigation and/or discovery in this action.

16. As a direct result of the negligent and careless conduct, acts and/or omissions on the part of the defendants, plaintiff Mark E. Dillon suffered the following injuries, conditions and damages, some or all of which may be permanent in nature:

- (a) severe injuries to left leg necessitating amputation;
- (b) medical expenses;
- (c) pain and suffering;
- (d) emotional distress, anxiety, anguish and humiliation;
- (e) loss of wages and impairment of earnings capacity;
- (f) other economic damages;
- (g) permanent disfigurement;
- (h) loss of life's pleasures;
- (i) other injuries and conditions as documented in plaintiff Mark E. Dillon's medical records;
- (j) past pain and suffering;
- (k) future pain and suffering;
- (l) past lost earnings;
- (m) future wage loss;
- (n) loss of earning capacity;
- (o) phantom limb pain;
- (p) need for therapies;
- (q) need for rehabilitation;
- (r) past medical expenses;
- (s) embarrassment;

- (t) need for surgery; and
- (u) need for prosthetic leg.

WHEREFORE, Plaintiffs Mark E. Dillon and Rosemary Dillon demand judgment in their favor against defendants James S. Irwin and Prime Services, LLC, jointly and severally, for all actual and compensatory damages in an amount in excess of the prevailing federal arbitration limit, together with such other relief as this Honorable Court deems just and proper under the circumstances.

**COUNT II**  
**Loss of Consortium**  
**Plaintiff Rosemary Dillon v. Defendants James S. Irwin and Prime Services, LLC**

17. Plaintiffs incorporate by reference the averments contained in the above paragraphs as though fully set forth herein at length.

18. At all times relevant hereto, defendant Prime Services, LLC acted by through its duly authorized agents, servants, workmen and/or employees, including but not limited to defendant James S. Irwin, all of whom acted within the course and scope of their employment, agency and/or servanthship.

19. As a direct result of the negligent and careless conduct, acts and/or omissions on the part of the defendants, as set forth above, plaintiff Rosemary Dillon has suffered consequential damages and has been deprived of her husband's full financial support, aid, assistance, society, care, comfort, companionship, and has otherwise suffered a loss of consortium.

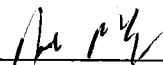
WHEREFORE, Plaintiffs Mark E. Dillon and Rosemary Dillon demand judgment in their favor against defendants James S. Irwin and Prime Services, LLC, jointly and severally, for all actual and compensatory damages in an amount in excess of the prevailing federal arbitration limit, together with such other relief as this Honorable Court deems just and proper under the circumstances.

**FRIEDMAN SCHUMAN, P.C.**

Date:

3/21/19

By:



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